

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

UNITED STATES OF AMERICA)	
)	No. 3:23-00081
)	JUDGE CRENSHAW
v.)	
)	
JOSIAH ERNESTO GARCIA)	

MOTION TO STRIKE ALIAS FROM INDICTMENT

Defendant Josia Ernesto Garcia respectfully moves to strike an alias—“Reaper”—from his indictment because he is proceeding to trial and the indictment’s identification of him as “Reaper” is unnecessary and will be unduly prejudicial.

The Sixth Circuit “strongly disapprove[s] the practice of including aliases in indictments.” *United States v. Wilkerson*, 456 F.2d 57, 59 (6th Cir. 1972). “Only when proof of an alias is relevant to identifying the defendant should a court allow its inclusion in the indictment and its subsequent introduction at trial.” *Id.*; accord *Smith v. United States*, 285 F. App’x 209, 213 (6th Cir. 2008) (quoting *Wilkerson*). Thus, an indictment can properly include an alias when doing so is “necessary to connect the defendant[] with the acts charged,” *United States v. Emuegbunam*, 268 F.3d 377, 394 (6th Cir. 2001) (quoting *United States v. Hines*, 955 F.2d 1449, 1454 (11th Cir. 1992)), such as when coconspirators regularly or even exclusively identify each other only through their gang aliases. *United States v. Williams*, 158 F. App’x 651, 654-55 (6th Cir. 2005).

Garcia’s connection to the alleged acts is completely clear. The proof will show that he identified himself using his real name, and that the undercover agents operating against him knew his real name. There will be no doubt whatsoever that Garcia committed the alleged acts.

Thus, the indictment’s allegation of the alias “Reaper” is *not* “relevant to identifying the defendant.” *Wilkerson*, 456 F.2d at 59. Reading that alias to the jury would strictly “predispose the jury against [Garcia] or suggest improper character inferences.” *Williams*, 158 F. App’x. at 655. Accordingly, Garcia asks the Court to strike the alias from the indictment. *See, e.g., United States v. Ranke*, 2010 U.S. Dist. LEXIS 115352, at *34 (E.D. Mich. Oct. 29, 2010) (granting this relief).

Respectfully submitted,

s/ David Fletcher
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CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2024, I electronically filed this pleading with the U.S. District Court Clerk by using the CM/ECF system, which will send a Notice of Electronic Filing to the following: Brooke Schiferle, Assistant United States Attorney, 719 Church Street, Suite 3300, Nashville, Tennessee, 37203.

s/ David Fletcher
DAVID FLETCHER